

103D CONGRESS
1ST SESSION

H. R. 833

To amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. GIBBONS (for himself, Mr. SYNAR, Mr. BACCHUS of Florida, Mr. BERMAN, Mr. BROWN of California, Mrs. BYRNE, Mr. COLEMAN, Mr. DICKS, Mr. FROST, Mr. JEFFERSON, Mrs. MALONEY, Mrs. MEEK, Mr. NEAL of Massachusetts, Ms. PELOSI, Mr. RAVENEL, Mr. SABO, Mr. SCHUMER, Ms. SLAUGHTER, Mr. STOKES, Mr. TOWNS, Mr. WELDON, and Mr. YATES) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Wildlife Ref-
5 uge System Management and Policy Act of 1993”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds and declares
3 that—

4 (1) the National Wildlife Refuge System (here-
5 after in this section referred to as the “System”)
6 was established under the National Wildlife Refuge
7 System Administration Act of 1966 (16 U.S.C.
8 668dd et seq.);

9 (2) the National Wildlife Refuge System Ad-
10 ministration Act of 1966 consolidates the authorities
11 related to lands, waters, and interests in such lands
12 and waters administered by the Secretary of the In-
13 terior (hereafter in this section referred to as the
14 “Secretary”), for the purpose of conservation of fish
15 and wildlife;

16 (3) the System provides opportunities for indi-
17 viduals to participate in wildlife-oriented recreation,
18 and to learn, understand, and appreciate the value
19 of and need for conserving fish and wildlife, wild
20 lands, and naturally productive ecological commu-
21 nities, types, and systems;

22 (4) the System is the only complex of Federal
23 lands devoted primarily to preserving, restoring, and
24 managing fish and wildlife and the habitats of fish
25 and wildlife;

1 (5) National Wildlife Refuges provide habitat
2 for many endangered and threatened species, and
3 for species that may become endangered or threat-
4 ened, as well as for other fish, wildlife, and plants;

5 (6) the well-being and abundance of such fish,
6 wildlife, and plants would be diminished without
7 such protected habitat;

8 (7) activities are occurring on a significant
9 number of National Wildlife Refuges that result in
10 harm to the fish and wildlife resources the System
11 was designed to conserve; and

12 (8) improvements are needed in the administra-
13 tion and management of the System to ensure that
14 sound and effective conservation programs for the
15 System are developed, implemented, and enforced.

16 (b) PURPOSES.—The purposes of this Act are as fol-
17 lows:

18 (1) To reaffirm the provisions of the Act com-
19 monly known as the Refuge Recreation Act (16
20 U.S.C. 460k et seq.) that authorizes the Secretary
21 of the Interior (hereafter in this subsection referred
22 to as the “Secretary”) to permit compatible fish and
23 wildlife-oriented public recreation, such as hunting,
24 fishing, and wildlife observation on refuges.

1 (2) To improve the administration and manage-
2 ment of the System.

3 (3) To establish purposes for the System.

4 (4) To improve the compatibility determination
5 process for National Wildlife Refuges.

6 (5) To establish comprehensive planning for the
7 System and individual wildlife refuges of the System.

8 (6) To provide for interagency coordination in
9 maintaining refuge resources.

10 **SEC. 3 DEFINITIONS.**

11 Section 5 of the National Wildlife Refuge System Ad-
12 ministration Act of 1966 (16 U.S.C. 668ee) is amended—

13 (1) by redesignating subsections (a) through (c)
14 as subsections (g) through (i); and

15 (2) by inserting the following new subsections
16 before subsection (h) (as so redesignated):

17 “(a) The term ‘Secretary’ means the Secretary of the
18 Interior (except as the context implies otherwise).

19 “(b) The term ‘Director’ means the Director of the
20 United States Fish and Wildlife Service.

21 “(c) The term ‘System’ means the National Wildlife
22 Refuge System.

23 “(d) The term ‘refuge’ means a unit of the National
24 Wildlife Refuge System, except that such term shall not

1 include State-managed wildlife management areas (com-
2 monly known as ‘coordination areas’).

3 “(e) The terms ‘fish’, ‘wildlife’ and ‘fish and wildlife’
4 mean any native member of the animal kingdom in a wild,
5 unconfined state, including the parts, products, or eggs
6 of such animals.

7 “(f) The term ‘plant’ means any native member of
8 the plant kingdom in a wild, unconfined state, including
9 plant communities, seeds, roots, and other parts thereof.”.

10 **SEC. 4. PURPOSES AND ADMINISTRATION OF THE SYSTEM.**

11 Subsection (a) of section 4 of the National Wildlife
12 Refuge System Administration Act of 1966 (16 U.S.C.
13 668dd(a)) is amended—

14 (1) by redesignating paragraphs (2) and (3) as
15 paragraphs (5) and (6); and

16 (2) by inserting after paragraph (1) the follow-
17 ing new paragraphs:

18 “(2) The purposes of the System are as follows:

19 “(A) To provide a national network of lands
20 and waters with respect to which the size, variety,
21 and location are designed to protect the wealth of
22 fish, wildlife, and plants of this Nation and their
23 habitats for present and future generations.

24 “(B) To provide healthy, naturally productive,
25 and enduring food, water, and shelter to fish, wild-

1 life, and plant communities and to ensure naturally
2 diverse, healthy, and abundant populations of fish,
3 wildlife, and plant species in perpetuity.

4 “(C) To serve in the fulfillment of international
5 treaty obligations of the United States with respect
6 to fish, wildlife, and plants, and their habitats.

7 “(3) If the Secretary finds that a conflict exists be-
8 tween any purpose set forth in the law or order that estab-
9 lished a refuge and any purpose set forth in paragraph
10 (2), the Secretary shall resolve the conflict in a manner
11 that fulfills the purpose set forth in the law or order that
12 established the refuge, and, to the extent possible, achieves
13 all of the purposes set forth in paragraph (2).

14 “(4) In the administration of the System for the pur-
15 poses described in paragraph (2), the Secretary, acting
16 through the Director, shall—

17 “(A) ensure that the purposes of the System
18 described in paragraph (2) of this subsection and
19 the purposes of each refuge are carried out;

20 “(B) protect the System and the components of
21 the System from threats to the ecological integrity
22 of such System and components;

23 “(C) to the extent authorized by law, ensure
24 adequate water quantity and water quality to fulfill
25 the purposes of the System and of each refuge; and

1 “(D) plan, propose, and direct expansion of the
2 System in a manner best designed to—

3 “(i) accomplish the purposes of the System
4 and of each refuge in the System;

5 “(ii) protect and aid recovery of any spe-
6 cies listed as endangered or threatened (and
7 any species that is a candidate for such listing);
8 and

9 “(iii) conserve other fish, wildlife, and
10 plants, the habitats of such fish, wildlife, and
11 plants, and other elements of natural diver-
12 sity.”.

13 **SEC. 5. COMPATIBILITY STANDARDS AND PROCEDURES.**

14 Paragraph (1) of section 4(d) of the National Wildlife
15 Refuge System Administration Act of 1966 (16 U.S.C.
16 668dd(d)(1)), is amended by adding at the end of the
17 paragraph the following new subparagraphs:

18 “(C) Except as provided in subparagraph (E)
19 of this paragraph, the Secretary shall not initiate or
20 permit a new use of a refuge or expand, renew, or
21 extend an existing use unless the Secretary finds, in
22 consultation with the Director, pursuant to sub-
23 section (e) of this section, that such use is compat-
24 ible with the purposes of the System and of the ref-
25 uge. The Secretary shall make no determination of

1 such compatibility, nor initiate a proposed new use
2 or permit a proposed, continued, or expanded use,
3 unless the Secretary does the following:

4 “(i) States the time, location, manner, and
5 purpose of such use.

6 “(ii) Evaluates the direct, indirect, and cu-
7 mulative biological, ecological, and other effects
8 that the Secretary determines to be appropriate
9 of such use.

10 “(iii) Makes a determination, on the basis
11 of the evaluation required under clause (ii) of
12 this subparagraph, that such use will contribute
13 to the fulfillment of the purposes of the System
14 and the refuge or will not have a detrimental
15 effect upon fulfillment of the purposes of the
16 System or the refuge.

17 “(iv) Makes a determination that funds are
18 available for the development, operation, and
19 maintenance of such use.

20 “(D) Unless the Secretary, in consultation with
21 the Director, determines that there is sufficient in-
22 formation available to make a reasoned judgment
23 that a proposed, continued, or expanded use of a ref-
24 uge is compatible with the purposes of the System

1 and the refuge, the Secretary shall not permit the
2 use.

3 “(E)(i) Except as provided in clause (ii), uses
4 of refuge system lands in effect on the date of the
5 enactment of the National Wildlife Refuge System
6 Management and Policy Act of 1993 that, before
7 such date, have been determined to be compatible
8 under this section or the Act entitled ‘An Act to as-
9 sure continued fish and wildlife benefits from the
10 national fish and wildlife conservation areas by au-
11 thorizing their appropriate incidental or secondary
12 use for public recreation to the extent that such use
13 is compatible with the primary purposes of such
14 areas, and for other purposes’, commonly referred to
15 as the ‘Refuge Recreation Act’ (16 U.S.C. 460k et
16 seq.) may be continued pursuant to the terms and
17 conditions of existing special use permits, and appli-
18 cable law, for the period of time specified in the per-
19 mit.

20 “(ii) Not later than 5 years after the date of
21 the enactment of the National Wildlife Refuge Sys-
22 tem Management and Policy Act of 1993, any use
23 described in clause (i) shall cease and permits for
24 such uses be revoked unless the Secretary, in con-
25 sultation with the Director of the United States Fish

1 and Wildlife Service, makes a determination, pursu-
2 ant to the procedures established under this section,
3 that the use is compatible with the purposes of the
4 System and the refuge.

5 “(F) The Secretary shall, acting through the
6 Director, by regulation, establish and maintain a
7 formal process for governing determinations of
8 whether an existing or proposed new use in a refuge
9 is compatible or incompatible with the purposes of
10 the System and the refuge. The regulations shall
11 provide for the expedited consideration of uses that
12 the Secretary considers to have little or no adverse
13 effects on the purposes of the System or a refuge,
14 and shall—

15 “(i) designate the refuge officer initially re-
16 sponsible for compatibility and incompatibility
17 determinations;

18 “(ii) describe the biological, ecological, and
19 other criteria to be used in making such deter-
20 minations;

21 “(iii) require that such determinations
22 shall be made in writing and based on the best
23 available scientific information;

1 “(iv) establish procedures that ensure an
2 opportunity for public review and comment with
3 respect to such determinations;

4 “(v) designate the officer who shall hear
5 and rule on appeals from initial determinations;
6 and

7 “(vi) provide for the reevaluation of a com-
8 patibility determination on a periodic basis or
9 whenever the conditions under which the use is
10 permitted change.

11 “(G) Except as provided in subparagraph (H),
12 the head of each Federal agency that, with respect
13 to a refuge, has an equivalent or secondary jurisdic-
14 tion with the Department of the Interior, or that
15 conducts activities within any refuge shall, in con-
16 sultation with the Secretary, ensure that any actions
17 authorized, funded, or carried out in whole or in
18 part by such agency will not impair the resources of
19 the refuge or be incompatible with the purposes of
20 either the System or the refuge (unless such action
21 is specifically authorized by law).

22 “(H) The President may find, on a case-by-case
23 basis, that, with respect to a refuge, it is in the
24 paramount interest of the United States to exempt
25 the head of a Federal agency described in subpara-

1 graph (G) from carrying out the requirements of
2 subparagraph (G) of this paragraph.”.

3 **SEC. 6. SYSTEM CONSERVATION PLANNING PROGRAM.**

4 (a) IN GENERAL.—Section 4 of the National Wildlife
5 Refuge System Administration Act of 1966 (16 U.S.C.
6 668dd), as amended by section 3 of this Act, is further
7 amended—

8 (1) by redesignating subsections (e) through (i)
9 as subsections (g) through (k); and

10 (2) by inserting the following new subsections:

11 “(e) SYSTEM PLAN.—(1) Not later than September
12 30, 1995, the Secretary shall prepare, and subsequently
13 revise, not less frequently than every 10 years thereafter,
14 a comprehensive plan for the System.

15 “(2) The plan described in paragraph (1) shall in-
16 clude—

17 “(A) relevant elements of recovery plans re-
18 quired under section 4(f), of the Endangered Species
19 Act of 1973 (16 U.S.C. 1533(f));

20 “(B) relevant summaries and compilations of
21 refuge plans developed under this section and the
22 relevant elements of migratory bird management
23 plans;

24 “(C) a strategy and standards for maintaining
25 healthy and abundant wildlife populations in the

1 System and in each refuge ecotype or ecosystem (in-
2 cluding the protection of zones for dispersal, migra-
3 tion, and other fish and wildlife movements, and the
4 conservation of species designated as candidates for
5 listing pursuant to section 4 of the Endangered Spe-
6 cies Act (16 U.S.C. 1533));

7 “(D) strategies, developed cooperatively with
8 agencies administering other Federal or State land
9 systems, to enhance wildlife protection on national
10 wildlife refuges and other land systems which collec-
11 tively form a national network of wildlife habitats;
12 and

13 “(E) a plan and program for the acquisition of
14 lands and waters, including water rights, necessary
15 to achieve the purposes of the System and each ref-
16 uge.

17 “(f) REFUGE CONSERVATION PLANS.—(1) Except
18 with respect to refuge lands in Alaska (which shall be gov-
19 erned by refuge planning provisions of the Alaska National
20 Interest Lands Conservation Act (16 U.S.C. 3101 et
21 seq.)), the Secretary shall prepare, and revise at least
22 every 15 years, a comprehensive conservation plan (herein-
23 after in this subsection referred to as a ‘plan’) for each
24 refuge or ecologically related complex of refuges (hereafter
25 in this subsection referred to as a ‘planning unit’) in the

1 System. The Secretary shall revise any plan at any time
2 thereafter, upon a determination that conditions that af-
3 fect a planning unit have changed significantly.

4 “(2) In developing each plan under this subsection,
5 the Secretary shall identify and describe—

6 “(A) the purposes of the refuge and the pur-
7 poses of the System applicable to the refuge or the
8 individual refuges of the planning unit;

9 “(B) fish, wildlife, and plant populations and
10 habitats of the planning unit (including at the time
11 of the development of the plan, current, historical,
12 and potentially restorable populations and habitats)
13 and the seasonal (and other) dependence of migra-
14 tory fish and wildlife species on the habitats and re-
15 sources of interrelated units of the System;

16 “(C) archaeological, cultural, ecological geologi-
17 cal, historical, paleontological, physiographic, and
18 wilderness values of the planning unit;

19 “(D) areas within the planning unit that are
20 suitable for use as administrative sites or visitor fa-
21 cilities or for visitor services;

22 “(E) significant problems, including water
23 quantity and quality needs (within or without the
24 boundaries of the refuge or complex) that may ad-
25 versely affect the natural diversity, communities,

1 health, or abundance of populations or habitats of
2 fish, wildlife, and plants;

3 “(F) existing boundaries of each refuge in the
4 planning unit in relation to ecosystem boundaries
5 and wildlife dispersal and migration patterns; and

6 “(G) specific strategies, developed cooperatively
7 with the heads of agencies administering other Fed-
8 eral and State lands, to enhance wildlife protection
9 in the planning unit, and to the extent practicable,
10 on other Federal and State lands proximate to the
11 planning unit.

12 “(3) Each plan under this subsection shall—

13 “(A) designate each area within the planning
14 unit according to the archeological, cultural, ecologi-
15 cal, geological, historical, paleontological,
16 physiographic, and wilderness values of the area;

17 “(B) specify the uses within each such area
18 that may be compatible with the purposes of the ref-
19 uge and the System and the funds and personnel
20 that may be required to administer such uses;

21 “(C) specify programs for achieving the pur-
22 poses described in paragraph (2)(A) and for conserv-
23 ing, restoring, and maintaining the resources and
24 values identified and described under subparagraphs
25 (B) and (C) of paragraph (2);

1 “(D) specify the approaches to be taken to
2 avoid or overcome the problems identified in para-
3 graph (2)(E) and estimate resource commitments re-
4 quired to implement such approaches;

5 “(E) specify opportunities that may be provided
6 within the planning unit for compatible fish and
7 wildlife related recreation, ecological research, envi-
8 ronmental education, and interpretation of refuge re-
9 sources and values;

10 “(F) except with respect to Alaska refuges
11 studied pursuant to section 1317 of the Alaska Na-
12 tional Interest Lands Conservation Act (16 U.S.C.
13 3205), review the suitability for designation as wil-
14 derness refuge lands not previously studied for des-
15 ignation as wilderness or designated as wilderness,
16 and recommend to the President and Congress des-
17 ignation for such lands in accordance with the provi-
18 sions of sections 3(c) and 3(d) of the Wilderness Act
19 (16 U.S.C. 1132 (c) and (d), respectively), including
20 islands and areas of 200 acres or more immediately
21 adjacent to wilderness areas (as designated at the
22 time of the review), lands recommended (before the
23 time of such review) for inclusion in the Wilderness
24 Preservation System, and proposed land acquisitions
25 by the Department of the Interior that the Secretary

1 determines will, over time, be of an area of 5,000
2 contiguous acres; and

3 “(G) identify the funds and personnel necessary
4 to implement the strategies and administer the uses
5 identified in this section.

6 “(4) In preparing each plan under this subsection,
7 and any revision of the plan, the Secretary shall consult
8 with such heads of Federal and State departments and
9 agencies as the Secretary determines to be appropriate.

10 “(5) Prior to the adoption of a plan, the Secretary
11 shall issue public notice of the draft proposed plan in the
12 Federal Register, make copies of the plan available at each
13 regional office of the United States Fish and Wildlife
14 Service, and provide opportunity for public comment.

15 “(6)(A) Not later than 4 years after the date of the
16 enactment of the National Wildlife Refuge System Man-
17 agement and Policy Act of 1993, the Secretary shall, pur-
18 suant to this subsection, prepare and submit to the appro-
19 priate committees of Congress, plans for not less than one-
20 third of the refuges in existence on the date of the enact-
21 ment of such Act.

22 “(B) Not later than 7 years after the date of the en-
23 actment of the National Wildlife Refuge System Manage-
24 ment and Policy Act of 1993, the Secretary shall, pursu-
25 ant to this subsection, prepare and submit to the appro-

1 puate committees of Congress, plans for not less than two-
2 thirds of refuges in existence on the date of the enactment
3 of such Act.

4 “(C) Not later than 10 years after the date of the
5 enactment of the National Wildlife Refuge System Man-
6 agement and Policy Act of 1993, the Secretary shall, pur-
7 suant to this subsection, prepare and submit to the appro-
8 priate committees of Congress, plans for each refuge in
9 existence on the date of the enactment of such Act.

10 “(D) With respect to any refuge established after the
11 date of the enactment of the National Wildlife Refuge Sys-
12 tem Management and Policy Act of 1993, the Secretary
13 shall prepare a plan for the refuge not later than 2 years
14 after the date of the establishment of such refuge.”.

15 **SEC. 7. ADMINISTRATION.**

16 The Secretary of the Interior shall manage the ref-
17 uges in the National Wildlife Refuge System in a manner
18 consistent with any refuge conservation plans developed
19 under section 4 of the National Wildlife Refuge System
20 Administration Act of 1966 (16 U.S.C. 668dd), as amend-
21 ed by this Act.

22 **SEC. 8. REGULATIONS.**

23 Except as otherwise required in this Act, the Sec-
24 retary of the Interior, shall—

1 (1) not later than 1 year after the date of the
2 enactment of this Act, propose regulations to carry
3 out the provisions of this Act; and

4 (2) not later than 18 months after the date of
5 the enactment of this Act, promulgate final regula-
6 tions to carry out the provisions of this Act.

7 **SEC. 9. CONFORMING AMENDMENT.**

8 Section 4 of the National Wildlife Refuge System Ad-
9 ministration Act of 1966, as amended by section 6 of this
10 Act, is further amended by striking “Secretary of the Inte-
11 rior” each place it appears and inserting “Secretary”.

12 **SEC. 10. APPROPRIATIONS.**

13 There are authorized to be appropriated such sums
14 as may be necessary to carry out the purposes of this Act.

15 **SEC. 11. EMERGENCY POWER.**

16 The Secretary of the Interior is authorized to suspend
17 any activity conducted in any refuge in the National Wild-
18 life Refuge System in the event of an emergency that con-
19 stitutes an imminent danger to the health and safety of
20 any wildlife population, refuge, or to public health and
21 safety.

22 **SEC. 12. STATUTORY CONSTRUCTION.**

23 Except as specifically provided in this Act, nothing
24 in this Act shall be construed so as to alter or otherwise
25 affect the provisions of the Refuge Recreation Act of 1962

1 (16 U.S.C. 460k et seq.), the National Wildlife Refuge
2 System Administration Act (16 U.S.C. 668dd et seq.), the
3 Alaska National Interest Conservation Act of 1980 (16
4 U.S.C. 3101 et seq.), and other laws and orders establish-
5 ing individual refuges in effect on the date of the enact-
6 ment of this Act.

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